

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)	Chapter 7
)	
EASTERN LIVESTOCK CO., LLC,)	Case No. 10-93904-BHL-11
)	
Debtor.)	Hon. Basil H. Lorch III

MOTION TO APPROVE COMPROMISE AND SETTLEMENT WITH C&M CATTLE

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee ("Trustee") for Eastern Livestock Co., LLC ("Debtor"), by counsel, hereby files this motion (the "Settlement Motion") requesting the Court's approval of a compromise and settlement of claims between the Trustee and C&M Cattle ("C&M"). In support of this Settlement Motion, the Trustee respectfully represents the following:

Preliminary Background

1. Certain petitioning creditors commenced the above-captioned chapter 11 case (the "Chapter 11 Case") against Debtor on December 6, 2010 (the "Petition Date") by filing an involuntary petition for relief under chapter 11 of title 11 of the United States Code. This Court entered the Order for Relief in An Involuntary Case and Order to Complete Filing [Dock. No. 110] on December 28, 2010.

2. On December 27, 2010, the Court entered the Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee [Dock. No. 102] pursuant to 11 U.S.C. § 1104.

3. Based on his investigation, the Trustee has concluded that C&M owes the Debtor \$378,198.68 on account of 802 head of cattle delivered to C&M by Debtor from and after August 27, 2010 and as evidenced by Debtor's invoice numbers 13314934, 13315133, 14314219, 14314251, 31310923, 31316083 and 31316245. C&M disputes that \$378,198.68 is the true

amount owing to Debtor and asserts that C&M is entitled to set-off the amount of \$172,901.97 (the "Set-off Amount") against any amounts owed to Debtor because Debtor allegedly owes the Set-off Amount to C&M for 1) 202 head of cattle that C&M delivered to Debtor on October 28, 2010 and November 11, 2010 and 2) an unpaid feed bill from October of 2010.

4. C&M is willing to make immediate payment of \$205,296.71 (the "Settlement Amount") in satisfaction of the "Released Claims" (defined below) provided the Court enters a final, nonappealable order approving this Settlement Motion ("Settlement Order").

The Settlement

5. The Trustee requests that the Court approve the Settlement Agreement and Mutual Release attached hereto as Exhibit A ("Settlement Agreement"). The Settlement Agreement provides that C&M will pay the amount of \$205,296.71 (the "Settlement Amount") to the Trustee to be held in escrow until such date as the Settlement Order becomes a final, nonappealable order. Further, C&M shall assign to the Trustee all claims it has or may have in connection with the following adversary proceeding in the Chapter 11 case: *Friona Industries, LP v. Eastern Livestock Co., LLC, et al*, Adversary Proceeding No. 11-59093. The Trustee and C&M shall enter into a limited mutual release in accordance with the terms of the Settlement Agreement.

Basis for Relief

6. Pursuant to Federal Rule of Bankruptcy Procedure 9019, this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

7. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors

Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Depoister v. Mary M. Holloway Found, 36 F.3d 582,586 (7th Cir. 1994); Matter of Energy Co-op, Inc., 886 F.2d 921, 927 (7th Cir. 1989).

8. The Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the estate.

9. The Trustee requests the Court to specify in the Settlement Order that the Settlement Amount shall be deposited into the Debtor's general operating account subject to any order governing the use of cash collateral by the Trustee.

WHEREFORE, if no objections to this Settlement Motion are filed, the Parties request that the Court enter the Settlement Order approving the Settlement Agreement. A proposed form of order is attached as Exhibit B. If any objections to this Settlement Motion are filed, the parties request that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court. The Trustee requests that any notice of this motion include language that any objection to this Settlement Motion set forth with specificity any claim that the objecting party has to the Settlement Amount.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Shiv Ghuman O'Neill

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CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2012, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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